

Campbelltown Council Contract for Certification Work

Under section 31 of the *Building and Development Certifiers Act 2018* and Part 5 of the *Building and Development Certifiers Regulation 2020*.

Privacy Statement

The information requested by Council on this form may constitute personal information under the *Privacy and Personal Information Protection Act 1998*. Council is allowed to collect the information from you to consider this matter. Supplying this information is voluntary. However, if you cannot or do not wish to provide the information, we may not be able to consider the matter. If you need further details, please contact the Privacy Officer, Campbelltown City Council, cnr Queen and Broughton Streets, Campbelltown.

About this form:

Campbelltown council must not carry out certification work for a person unless it has entered into a written contract with that person.

You must therefore complete and sign Contract for Certification Work and attach it to your application in the NSW Planning Portal for any Construction Certificate application, Complying Development Certificate application, Principal Certifier appointment or Occupation Certificate application.

When the contract is received, it will be signed by an authorised officer and a copy of the executed contract will be emailed to you for your records.

If you have any questions or require assistance with your application, please call Council's Building Certification Team on 4645 4608.

How to Complete:

1. Ensure that all fields have been filled in correctly.
2. Please note that fields on this form marked with an * are mandatory and must be completed before submitting the application.
3. Once completed, please refer to the lodgment details section for further information.
4. Please note that a builder may not be the applicant for a construction certificate application, principal certifier appointment or occupation certificate unless the builder is also the owner of the subject property.

Part A: Parties to this Contract
Applicant:

Salutation: (please tick)	☐ Mr	☐ Mrs	☐ Miss	☐ Other (please specify)
First name:			Surname:	
Email:				
Street Address				
Suburb:			Postcode:	
Postal address: (if different to street address)				
Suburb:			Postcode:	
Phone Number:			Mobile Number	

Campbelltown City Council:

Civic Centre: 91 Queen Street, Campbelltown
 Mail: PO Box 57, Campbelltown NSW 2560
 Telephone: 02 4645 4000
 Email: council@campbelltown.nsw.gov.au
 ABN 31 459 914 087

DATA AND DOCUMENT CONTROL

Part B: Introduction

- Council is a certifying authority and employs registered certifiers who are authorised to carry out certification work on behalf of Council.
- Section 31(1) of the *Building and Development Certifiers Act 2018* (NSW) says that Council must not carry out certification work for a person unless it has entered into a written contract with that person.
- The applicant appoints Council to carry out certification work on the terms set out in this contract

Part C: Application Type

I am the applicant described in the attached application for:

- ☐ Complying Development Certificate application
- ☐ Construction Certificate application
- ☐ Principal Certifier appointment
- ☐ Occupation Certificate application

Part D: Agreed certification services to be performed by Council

I, as the applicant wish to apply for Campbelltown City Council to provide the following services:

- ☐ Determination of application for a Complying Development Certificate
- ☐ Determination of application for a Construction Certificate
- ☐ Appointment of Council as Principal Certifier
- ☐ Determination of application for an Occupation Certificate

Note: Undertaking the functions of Principal Certifier (PC), a notice of commencement of building works form is required to be lodged prior to any work commencing on site (available on Council's website)

Part E: Modification of Complying Development Certificate, Construction Certificate cl 4.30 EP&A Act and, Modification of Construction Certificate cl 24 BDC Regulations

Note: This part only applies to determinations of applications for

- a. Complying development certificates
- b. Construction Certificates

Note: After entering into this contract and prior to commencement of building work the applicant may seek to modify the above certificates.

If a modification is sought, upon lodgement of the application form for any of the above certificates with Council relating to the modification, the applicant agrees that:

- a. This contract will also apply to the subsequent modification application for the development.
- b. The information contained in the application form will be automatically incorporated into this contract.
- c. Campbelltown Council's fees & charges apply.

Note: Council may appoint another employee Certifier to carry out the functions of the (PC)

Part F: Development Details

Development Details

Street Address			
Suburb		Postcode	
Legal Description	Lot:	Section	DP/SP
Relevant Development Consent Number			
Proposal Provide a written description and works proposed			
Capital Investment Value (value of work)	The capital investment value of the development is: \$_____ (Includes GST and all costs associated with the demolition and construction)		

DATA AND DOCUMENT CONTROL

Development Application/Modification of Consent	Note: This section is only to be completed if you have already received Development Consent.	
	Development Consent No/Section 4.55 Consent No (if applicable)	Date of Determination:
Building Classification	Nominated building classification under BCA (E.g. residential class 1a, 10a etc)	
Part G: Other Development Details including Development Particulars Related Part 6 certificates issued under the <i>Environmental Planning and Assessment Act 1979</i> (Construction Certificate, Occupation Certificate)		
Developments under the <i>Environmental Planning and Assessment Act 1979</i> (NSW)	In addition to the site details contained in the attached application form, the applicant declares that:	
	Tick appropriate box or boxes and complete as applicable:	
	☐ Development consent granted by consent authority:	
	Name of consent authority:	
	Development consent or identifier:	
	Date of development consent:	
	☐ Development consent given by the issue of a complying development certificate (CDC) EP&A Part 4.28	
	Name of certifying authority:	
	CDC number or identifier:	
	Date of CDC:	
	☐ EP&A Part 6 certificates issued	
	Type of Part 6 certificate issues:	
	Name of Certifying authority:	
Details of approved documents	Details of plans, specifications and other documents approved by the development consent/CDC:	
Details of approved documents	Details of plans, specifications and other documents the subject of any Part 6 certificate:	

DATA AND DOCUMENT CONTROL

Part H: Fees and Charges	
<p>Determination of Applications for Development Certificates</p> <ul style="list-style-type: none"> The applicant must pay the fees and charges for the determination of an application for a development certificate (including modification of a current certificate, where relevant) as specified in Council's Schedule of Fees and Charges. These fees and charges must be paid to Council before, or at the time, the application for a development certificate is lodged with Council. In the case of fees and charges payable for work arising from unforeseen contingencies, such as the assessment of performance solutions, these fees and charges will be calculated as specified in Council's Schedule of Fees and Charges. Council will issue a payment notice to the applicant within 21 days after the completion of such work and the applicant must pay by the due date specified on the payment notice. <p>Undertaking the functions of Principal Certifier (PC)</p> <ul style="list-style-type: none"> The applicant must pay the fees and charges for Council to carry out the functions of a PC for the development as specified in Council's Schedule of Fees and Charges. These fees and charges must be paid to Council in full at the time of lodging the PC appointment form (after the certificate is issued) and before Council commences to carry out the functions of PC. In the case of fees and charges payable for work arising from unforeseen contingencies, such as additional inspections, these fees and charges will be calculated as specified in Council's Schedule of Fees and Charges. Council will issue a payment notice to the applicant within 21 days after the completion of such work and the applicant must pay by the due date specified on the payment notice. <p>Council's Schedule of Fees and Charges</p> <p>Council's Schedule of Fees and Charges is available for download from the Campbelltown Council website and it is the responsibility of the applicant to obtain a copy.</p> <p>Financial information - Campbelltown City Council (nsw.gov.au)</p>	

Part I: Execution of Contract			
Declaration (please tick)			
☐ I/We have freely chosen to engage the Certifier; and ☐ I/We have read the contract and the attached information brochure and understand my responsibilities to those of the certifier.			
This contract is made on the date it is signed by Council's authorised officer:			
All applicants must sign the contract			
Applicant Name 1 (printed)			
Applicant 1 signature:		Date	/ /
Applicant Name 2 (printed)			
Applicant 2 signature:		Date	/ /
Incorporated Company			
Signed by the applicant in accordance with section 127 of the Corporations Act 2001			
Directors Name 1 (printed)			
Directors 1 signature:		Date	/ /
Directors/Secretary Name (printed)			
Directors/Secretary Name signature:		Date	/ /
Witness Name (printed)			
Witness signature:		Date	/ /
Authorised Officer SIGNED for and on behalf of the Campbelltown Council by its duly authorised officer			
Authorised Officer Name (printed)			
Authorised Officer signature:		Date	/ /

Attachment A – Terms and Conditions

1. INTRODUCTION

This is a contract between Campbelltown City Council (CCC) ("Council") and the person/s (hereinafter referred to as "the client") whose name/s and signature/s appear on the contract. The contract relates to an application from the client to engage CCC to provide certification services; including the appointment of Council as the Certifying Authority and Principal Certifier (PC) to assess and determine the application/s the subject of this contract and carry out nominated critical stage inspections of the building works and determination of application/s for Occupation Certificates. This Attachment sets out the terms, conditions and responsibilities of the Client and the Council

2. SERVICE PROVIDED AND RESPONSIBILITIES OF COUNCIL

Under the EP&A Act a certifier including the principal certifier (PC) has a range of functions in relation to building work:

- Issuing construction certificates or complying development certificates for building work,
- Carrying out inspections of building work,
- Issuing occupation certificates,
- Any other functions conferred or imposed on the certifier under the EP&A or any other Act.

3. OBLIGATIONS OF THE CERTIFIER

The Certifier will:

3.1 Ascertain, before any building work commences, that a construction certificate or complying development certificate has been issued for the work.

3.2 Ascertain, before any residential building work commences, that the principal contractor for the work is the holder of the appropriate licence and is covered by the appropriate insurance, in each case if required by the Home Building Act 1989, unless the work is to be carried out by an owner-builder.

3.3 Where the work is being carried out by an owner-builder, ascertain that the owner-builder is the holder of an owner-builder permit required under the Home Building Act 1989 before an owner builder commences on the site of any residential building work.

3.4 Confirm at what stages of construction inspections are to be carried-out. The Notice of Inspections will be attached to the Construction Certificate or Complying Development Certificate.

3.5 Carry out critical stage inspections of the building work as prescribed by the EP&A Certifier Regulation or as required by the Certifier before issuing an occupation certificate for the building work.

3.6 Make a record as required by the EP&A Certifier Regulation of all inspections and provide a copy to the client or their representative. Note: Inspections will be carried out Monday to Friday between the hours of 9:30AM - 12:00PM and 1:30PM - 4:00PM (excluding Public Holidays, weekends, Union Picnic Day and Council shutdown period/s).

3.7 Advise the client of the details of the work the subject of an unsatisfactory inspection and the need (if any) to carry out a reinspection.

3.8 Notify the Client if any additional fees for inspection are required because of reinspection for incomplete or defective works. Reinspection fees will be levied and payable for all reinspection's required as a result of work not being ready for the booked inspection or as a result of defective works.

3.9 Council will determine whether any inspection (other than the last critical stage inspection) has been not carried out, and whether the work that would have been inspected was satisfactory. Council will make a record of any such missed inspection and provide a copy to the Client and owner. Council will also notify the principal contractor of the missed inspection.

3.10 Assess applications and issue determinations for Construction Certificate, Complying Development Certificates and Occupation Certificates in the prescribed form.

3.11 Ensure that any preconditions required by a development consent or complying development certificate are met for the work before the issue of an occupation certificate.

3.12 Without limiting the compliance actions that Council may take, Council may:

- attend the site to inspect any issue of concern relating to the development.
- cause correspondence to be issued to any person.
- refer any matter of concern to such persons or authorities as Council considers appropriate, including the consent authority, NSW Fair Trading or an environmental protection agency.
- issue Directions and Orders under the EP&A Act.

4. FEES AND CHARGES

4.1 Fees payable to Council for the undertaking of all work involved in assessing, determining and finalising the application must be paid at the time of lodgement and will be as per Councils Adopted Fees & Charges for the current financial year. These fees are exclusively for the determination of a development certificate and the carrying out of critical stage building inspections. Other fees may be payable in accordance with Council's adopted Fees & Charges.

4.2 Please note all fees are reviewed annually and may change as of 1 July each year. The fee payable will be based on those applicable on the day on which the Contract is executed.

4.3 Any additional or re-inspections required as a result of unfinished or non-compliant work will incur additional charges based on the rates of inspection applicable for the current financial year.

4.4 Any re-inspections for building works must be paid for at the time of booking the inspection.

5. RESPONSIBILITIES OF THE CLIENT

The Client, in appointing Campbelltown City Council as the Certifier agrees to:

5.1 Provide all relevant drawings, plans, documents and any other related information or documents at the request of the Certifier to fulfil its obligations under this agreement.

5.2 Ensure that all documents and information provided by the Client are complete, current and accurate. In that regard, the Client acknowledges that the Certifier is entitled to rely on information and documents provided by the Client. The Client indemnifies the Certifier from any costs, expenses, losses, damages, claims, liability, demands, suits and proceedings suffered or incurred by, or made against, the Certifier in respect of the Certifiers reliance on the documents supplied by or on behalf of the Client or in relation to any third party placing any reliance on the performance of the Certifiers services under this Agreement.

5.3 Ensure that a Construction Certificate or Complying Development Certificate has been issued prior to the commencement of any works.

5.4 Provide Council a completed Notice of Commencement not less than two days before the commencement of any building works.

5.5 Where the Client is not carrying out the building work as owner-builder, the Client must have appointed a principal contractor for the building work who is the holder of a contractor licence (where residential building work is involved). The Client must notify the PC of the appointment of the principal contractor and notify the principal contractor of any critical stage inspections and other inspections required to be carried out for in respect of the building work.

5.6 Where the work is being carried out by an owner-builder, provide a copy of the builder permit required under the Home Building Act 1989 to the Certifier before the commencement of any work.

5.7 Pay all fees for services provided by the PC or such fees and charges as required by another authority, e.g. FRNSW.

5.8 Ensure that arrangements are made for Council to carry out inspections of the building works at various stages as indicated in Council's Notice of Inspections The owner or principal contractor must provide Council with a minimum of 48 hours' notice (excluding weekends and public holidays) prior to each inspection. Inspections must be booked via (02) 4645 4608.

5.9 Ensure that building work is ready for inspection by the agreed inspection date and time. Where a reinspection is required because of defective or incomplete works, the Client shall make payment of the appropriate reinspection fee as prescribed in Council's Adopted Fees and Charges.

5.10 Where an inspection is required, the Client MUST ensure the relevant stamped approved plans and specifications and other required details are on-site and/or available to the Certifier. For example, where a timber floor, roof or wall frame inspection is required, the relevant information must be provided such as roof truss specifications, tie-down and joint schedules, roof and wall bracing plans and specifications, timber sizes and the like.

5.11 Ensure that the site is accessible for the PC to carry out its contractual obligations.

5.12 Use suitably qualified and experienced contractors for all aspects of the Building Work.

5.13 Comply with any Written Direction Notices that the PC issues.

5.14 Act in good faith, in accordance with the Act, and in a cooperative manner

5.15 Before booking a final inspection and/or Occupation Certificate the client shall provide to Council the certificates listed in the Schedule of PC Requirements or otherwise requested by the certifier.

5.16 Ensure that the erection of the building and/or works are in accordance with the development consent and construction certificate. Any modifications to approved works shall have the prior approval of the consent authority and the certifier.

5.17 Provide the PC specialist reports, plans, specifications, compliance certificates and certification of materials, processes or works as requested. Additional documents we may request (where necessary) may include but are not limited to engineer's plans, engineering reports, engineering certification, Compliance Certificates, Fire Safety Certificates, Identification Surveys and evidence of suitability etc.

5.18 The applicant acknowledges that it is the applicant's responsibility (and that of your builder and/or subcontractors) to ensure that the applicant complies with all relevant legislation, consents, certificates and approvals relating to the subject development.

6. CONTRACT TERMINATION

6.1 This contract will automatically terminate upon the expiration of five (5) years from the date of this contract unless Council and the applicant have entered into a written contract to vary the duration of the contract and the applicant has paid all relevant fees; or

6.2 As soon as the PC has issued a Final or Whole Occupation Certificate for all building and development work the subject of this contract, the contract will automatically terminate; or

6.3 If the Client breaches the contract in any respect; or

6.4 Where Council is unable to issue the Construction Certificate or Complying Development Certificate within six (6) months from the date of execution of this contract.

7. DICTIONARY

Registered certifier means a person who is registered under the Building and Development Certifiers Act 2018 and whose registration is in force.

Applicable environmental planning instrument means the State Environmental Planning Policy, or the Local Environmental Plan nominated by the Client as the instrument against which an application for a complying development certificate is to be assessed.

BCA means the Building Code of Australia.

BDAC Act means the Building and Development Certifiers Act 2018.

Certification work means:

(a) the exercise of a function of a certifier (including a principal certifier) specified in section 6.5 of the Environmental Planning and Assessment Act 1979,

(b) the determination of an application for a strata certificate within the meaning of the Strata Schemes Development Act 2015,

(c) the inspection of swimming pools under Division 5 of Part 2 of the Swimming Pools Act 1992 and the issuing of certificates of compliance and notices under that Division,

(d) the exercise of any other function of a registered certifier under the certification legislation or under another Act or law,

(e) any other work of a kind prescribed by the regulations but does not include work of a kind that is excluded from this definition by the regulations.

Contractor licence means a licence issued under the Home Building Act 1989.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2021.

EP&A Certifier Regulation means the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Principal Certifier (PC) for building work means the certifier appointed as the principal certifier for the building work under section 6.6(1) of the EP&A Act.

Note: Council Certifiers, as the PC cannot be involved in the design of the building/development works. When Council has been appointed as the PC, a change of PC can only be undertaken upon agreement of Council or as determined by NSW Fair Trading.

Occupation Certificate (OC) means an Occupation Certificate within the meaning of the EP&A Act.

Owner-builder Permit has the meaning given to it by the Home Building Act 1989.

Residential building work has the meaning given to it by the Home Building Act 1989.

END OF TERMS AND CONDITIONS

DATA AND DOCUMENT CONTROL

Information about registered certifiers - building surveyors and building inspectors GUIDELINE

Important: this is a summary document only.

Before signing any contract for certification work, make sure you understand your obligations and what you are agreeing to. The Building Commission website has more information about certifiers.

Under section 31(2) of the *Building and Development Certifiers Act 2018* and clause 31 of the *Building and Development Certifiers Regulation 2020*, a contract to carry out certification work must be accompanied by an applicable document made available on the website of the Department of Customer Service (which includes Building Commission NSW).¹ This is the applicable document for certification work involving a certifier registered in the class of **building surveyor** or **building inspector**, working in either the private sector or for a local council.

This document summarises the statutory obligations of the registered certifier who will assess your development and your obligations as the applicant for the development. It also sets out the types of information that can be found on the Building Commission's online register of registrations and approvals.

Obligations of registered certifiers

The general obligations of registered certifiers include compliance with their conditions of registration, to hold professional indemnity insurance, comply with a code of conduct and avoid conflicts of interest.

Who does a registered certifier work for?

A registered certifier is a public official and independent regulator, registered by the Building Commissioner.

Certifiers must carry out work in a manner that is impartial and in the public interest, even if this is not in the interests of the applicant, developer, or builder. Receiving a certificate is not guaranteed – the applicant is paying for the certifier to assess the application and determine *whether or not* a certificate can be issued.

It is a serious offence to attempt to bribe or influence a certifier, attracting a maximum penalty of \$110,000 and/or two years imprisonment.

¹ Visit www.nsw.gov.au/departments-and-agencies/building-commission.

Obligations of the applicant

An applicant is the person seeking a certificate, or engaging a certifier for other certification work, under the *Environmental Planning and Assessment Act 1979*.

As an applicant, you have the following obligations:

- Appoint, and enter into a contract with, your chosen certifier.
- Pay the certifier's fees before any certification work² is carried out.
- Communicate with your builder to ensure the certifier is notified when work reaches each stage. If a mandatory inspection is missed, the certifier may have to refuse to issue an occupation certificate.
- Follow any written direction issued by the certifier and provide any requested additional information to assess an application.
- Meet the conditions of any development consent and ensure the development is carried out in accordance with the approved plans.

What does a registered building surveyor do?

Registered **building surveyors** issue certificates under the *Environmental Planning and Assessment Act 1979* (construction certificates, complying development certificates and occupation certificates), act as the **principal certifier** for development, and inspect building work.

The principal certifier will attend the site to carry out mandatory inspections at certain stages. When construction is complete, the certifier may issue an occupation certificate, which signifies that the work:

- is 'suitable for occupation' – this does not necessarily mean all building work is complete
- is consistent with the approved plans and specifications
- meets all applicable conditions of the approval.

The certifier does not manage or supervise builders or tradespeople or certify that the builder has met all requirements of the applicant's contract with the builder.

What does a registered building inspector do?

Registered **building inspectors** carry out inspections of building work³ with the approval and agreement of the principal certifier. Building inspectors are not authorised to issue certificates or be appointed as the principal certifier.

² Upfront fee payment is required for any work to determine an application for a development certificate or carry out a function of a principal certifier.

³ Building inspectors may inspect class 1 and 10 buildings under the Building Code of Australia; that is, houses, duplexes and the like, garages and sheds; and structures such as swimming pools, retaining walls and fences.

Principal certifier enforcement powers

If the principal certifier becomes aware of a non-compliance with the development approval, the certifier must, by law, issue a direction to you and/or the builder, requiring the non-compliance to be addressed. If it is not, the certifier must notify the council which may take further action.

The certifier is also required to respond appropriately if a complaint is made about the development.

Finding more information on certifiers

Details of the class of registration each certifier holds, their period of registration, professional indemnity insurance and disciplinary history can be found on the Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission

Questions?

The Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission has information about certifiers, enforcement powers, how to replace a certifier and resolving concerns about a certifier.

The NSW Planning Portal website www.planningportal.nsw.gov.au provides information on the NSW planning and development certification system.

Note, although Building Commission NSW regulates certifiers, it does not mediate in contract disputes and does not regulate the actions of councils. Visit the Building Commission NSW website for more information.

Contact us
For more information please contact Building Commission NSW:
T: 13 27 00
W: nsw.gov.au and search 'Building Commission NSW'